

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Agriculture and Rural Development, to which was referred House Bill 1398, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, delete lines 24 through 42, begin a new paragraph and
- 2 insert:
- 3 "SECTION 2. IC 6-2.5-7-1, AS AMENDED BY P.L.1-2007,
- 4 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 1. (a) The definitions in this section apply
- 6 throughout this chapter.
- 7 (b) "Kerosene" has the same meaning as the definition contained in
- 8 IC 16-44-2-2.
- 9 (c) "Gasoline" has the same meaning as the definition contained in
- 10 IC 6-6-1.1-103.
- 11 (d) "Special fuel" has the same meaning as the definition contained
- 12 in IC 6-6-2.5-22.
- 13 (e) "E85" has the meaning set forth in IC 6-6-1.1-103.
- 14 (f) "Unit" means the unit of measure, such as a gallon or a liter, by

1 which gasoline or special fuel is sold.

2 (g) "Metered pump" means a stationary pump which is capable of
3 metering the amount of gasoline or special fuel dispensed from it and
4 which is capable of simultaneously calculating and displaying the price
5 of the gasoline or special fuel dispensed.

6 (h) "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

7 (i) "Indiana special fuel tax" means the tax imposed under
8 IC 6-6-2.5.

9 (j) "Federal gasoline tax" means the excise tax imposed under
10 Section 4081 of the Internal Revenue Code.

11 (k) "Federal special fuel tax" means the excise tax imposed under
12 Section 4041 of the Internal Revenue Code.

13 (l) "Price per unit before the addition of state and federal taxes"
14 means an amount which equals the remainder of:

15 (1) the total price per unit; minus

16 (2) the state gross retail, Indiana gasoline or special fuel, and
17 federal gasoline or special fuel taxes which are part of the total
18 price per unit.

19 (m) "Total price per unit" means the price per unit at which gasoline
20 or special fuel is actually sold, including the state gross retail, Indiana
21 gasoline or special fuel, and federal gasoline or special fuel taxes which
22 are part of the sales price.

23 (n) "Distributor" means a person who is the first purchaser of
24 gasoline from a refiner, a terminal operator, or supplier, regardless of
25 the location of the purchase.

26 (o) "Prepayment rate" means a rate per gallon of gasoline
27 determined by the department under section 14 of this chapter for use
28 in calculating prepayment amounts of gross retail tax under section 9
29 of this chapter.

30 (p) "Purchase or shipment" means a sale or delivery of gasoline, but
31 does not include:

32 (1) an exchange transaction between refiners, terminal operators,
33 or a refiner and terminal operator; or

34 (2) a delivery by pipeline, ship, or barge to a refiner or terminal
35 operator.

36 (q) "Qualified distributor" means a distributor who:

37 (1) is a licensed distributor under IC 6-6-1.1; and

38 (2) holds an unrevoked permit issued under section 7 of this

1 chapter.

2 (r) "Refiner" means a person who manufactures or produces
3 gasoline by any process involving substantially more than the blending
4 of gasoline.

5 (s) "Terminal operator" means a person that:

6 (1) stores gasoline in tanks and equipment used in receiving and
7 storing gasoline from interstate or intrastate pipelines pending
8 wholesale bulk reshipment; or

9 (2) stores gasoline at a boat terminal transfer that is a dock or
10 tank, or equipment contiguous to a dock or tank, including
11 equipment used in the unloading of gasoline from a ship or barge
12 and used in transferring the gasoline to a tank pending wholesale
13 bulk reshipment.

14 **(t) "Ethanol blended fuel" refers to any blend of gasoline and**
15 **ethanol nominally consisting of more than ten percent (10%) but**
16 **less than eighty-five percent (85%) ethanol."**

17 Delete page 3.

18 Page 4, delete lines 1 through 7.

19 Page 4, line 29, reset in roman "total".

20 Page 4, line 29, delete "sum of the".

21 Page 4, line 29, delete "E20, E30, and".

22 Page 5, line 11, after "for" insert "**qualified**".

23 Page 5, line 13, delete "ten" and insert "**twelve**".

24 Page 5, line 13, delete "(\$0.10)" and insert "**(\$0.12)**".

25 Page 5, line 14, delete "sum of the".

26 Page 5, line 14, delete "E20, E30, and".

27 Page 5, line 22, strike "one million dollars (\$1,000,000)" and insert

28 **"the amount of money that the budget agency determines is**
29 **available in the retail merchant E85 deduction reimbursement**
30 **fund established under IC 15-15-12-30.5 for the deductions"**.

31 Page 5, line 23, strike "all" and insert "**a particular qualified**".

32 Page 5, line 23, strike "periods." and insert "**period.**".

33 Page 5, line 25, strike "If the department determines that the sum
34 of:".

35 Page 5, strike lines 26 through 29.

36 Page 5, line 30, strike "will exceed one million dollars
37 (\$1,000,000)," and insert "**Before August 1 of each year, the budget**
38 **agency shall estimate whether the deductions expected to be**

1 reported under subsection (c) STEP TWO for the qualified
 2 reporting periods beginning after December 31 and ending before
 3 April 1 of the following year would exceed the amount of money
 4 available in the retail merchant E85 deduction reimbursement
 5 fund for the deductions. If the budget agency determines that the
 6 amount of money in the retail merchant E85 deduction
 7 reimbursement fund is insufficient to cover the amount of the
 8 deductions expected to be reported,".

9 Page 5, line 30, strike "department" and insert "**budget agency**".

10 Page 5, line 32, strike "terminated after the date specified" and
 11 insert "**suspended with respect to the qualified reporting periods**
 12 **occurring in the following calendar year**".

13 Page 5, line 33, strike "in the notice".

14 Page 5, line 33, strike "additional".

15 Page 5, line 34, strike "after the date specified in the notice." and
 16 insert "**in the qualified reporting periods occurring in the following**
 17 **calendar year**".

18 Page 5, delete lines 35 through 42, begin a new paragraph and
 19 insert:

20 "**(e) As used in this section, "qualified reporting period" refers**
 21 **to a reporting period beginning after December 31 and ending**
 22 **before April 1 of each year.**

23 SECTION 4. IC 6-3.1-27-12, AS AMENDED BY P.L.191-2005,
 24 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2009]: Sec. 12. (a) If the amount of the credit determined
 26 under this chapter for a taxpayer in a taxable year exceeds the
 27 taxpayer's state tax liability for that taxable year, the taxpayer may carry
 28 over the excess to the following taxable years. The amount of the credit
 29 carryover from a taxable year shall be reduced to the extent that the
 30 carryover is used by the taxpayer to obtain a credit under this chapter
 31 for any subsequent taxable year. A credit may not be carried forward
 32 for more than ~~six (6)~~ **ten (10)** taxable years following the taxable year
 33 in which the taxpayer was first entitled to claim the credit.

34 (b) A taxpayer is not entitled to a carryback or refund of any unused
 35 credit. A taxpayer may not sell, assign, convey, or otherwise transfer
 36 the tax credit provided by this chapter."

37 Page 6, delete lines 1 through 15.

38 Page 6, delete lines 22 through 42, begin a new paragraph and

1 insert:

2 "SECTION 6. IC 15-15-12-30, AS ADDED BY P.L.2-2008,
3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 30. (a) The Indiana corn market development
5 account is established within the state general fund for purposes of
6 market development and reimbursing the state for the E85 retail
7 merchant deduction allowed under IC 6-2.5-7-5(d). The account shall
8 be administered by the council. The account consists of:

- 9 (1) assessments the council receives under this chapter;
10 (2) gifts; and
11 (3) grants.

12 (b) The expenses of administering this chapter must be paid from
13 money in the account. If the balance of the account is not more than
14 five hundred thousand dollars (\$500,000) in a fiscal year, the council
15 may expend not more than twenty-five percent (25%) of the balance for
16 administrative expenses. If the account has a balance of more than five
17 hundred thousand dollars (\$500,000) in a fiscal year, the council may
18 spend an additional amount of not more than ten percent (10%) of the
19 balance over five hundred thousand dollars (\$500,000) for
20 administrative expenses.

21 (c) On July 1 of each year the budget agency shall transfer from the
22 account an amount equal to the lesser of:

- 23 ~~(1) twenty-five percent (25%) of the balance of the account on the~~
24 ~~immediately preceding June 30, before the deduction of any~~
25 ~~expenses under subsection (b); or~~
26 ~~(2) the sum of all retail merchant deductions allowed under~~
27 ~~IC 6-2.5-7-5(d) and IC 6-2.5-7-5.5, in the immediately preceding~~
28 ~~state fiscal year. The amount transferred under this subsection (c)~~
29 ~~shall be deposited in the same manner as state gross retail and use~~
30 ~~taxes are required to be deposited under IC 6-2.5-10-1: five~~
31 **hundred thousand dollars (\$500,000) to the retail merchant**
32 **E85 deduction reimbursement fund established under section**
33 **30.5 of this chapter.**

34 (d) The treasurer of state shall invest the money in the account not
35 currently needed to meet the obligations of the account in the same
36 manner as other public money may be invested. Interest that accrues
37 from these investments shall be deposited in the account.

38 (e) Money in the account at the end of a state fiscal year does not

1 revert to the state general fund.

2 SECTION 7. IC 15-15-12-30.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: **Sec. 30.5. (a) The retail merchant E85**
5 **deduction reimbursement fund is established.**

6 **(b) The fund consists of money transferred from the Indiana**
7 **corn market development account under section 30 of this chapter.**
8 **Except as provided in subsection (g), money in the fund may only**
9 **be used for the purposes described in subsection (d).**

10 **(c) Before May 1, the budget agency shall determine the sum of**
11 **all retail merchant deductions allowed under IC 6-2.5-7-5(d) in the**
12 **immediately preceding qualified reporting period (as defined in**
13 **IC 6-2.5-7-5(e)).**

14 **(d) The budget agency shall transfer the amount determined**
15 **under subsection (c) from the fund for deposit. The amount**
16 **transferred under this subsection shall be deposited in the same**
17 **manner as state gross retail and use taxes are required to be**
18 **deposited under IC 6-2.5-10-1.**

19 **(e) The treasurer of state shall invest the money in the fund not**
20 **currently needed to meet the obligations of the fund in the same**
21 **manner as other public money may be invested. Interest that**
22 **accrues from these investments shall be deposited in the fund.**

23 **(f) If the amount of money in the fund is insufficient to**
24 **reimburse the state for all retail merchant deductions allowed**
25 **under IC 6-2.5-7-5(d) in the immediately preceding qualified**
26 **reporting period (as defined in IC 6-2.5-7-5(e)), the budget agency**
27 **shall transfer from the Indiana corn market development account**
28 **established under section 30 of this chapter an amount sufficient to**
29 **cure the insufficiency. Money in the state general fund may not be**
30 **expended for the purposes described in this section.**

31 **(g) If the retail merchant E85 deduction program is terminated,**
32 **any balance in the fund must be transferred to the Indiana corn**
33 **market development account established under section 30 of this**
34 **chapter."**

35 Delete pages 7 through 10.

36 Page 11, delete lines 1 through 16.

37 Page 11, delete lines 25 through 29, begin a new paragraph and
38 insert:

1 **"(d) As used in this section, "ethanol blended fuel" refers to any**
2 **blend of gasoline and ethanol nominally consisting of more than ten**
3 **percent (10%) but less than eighty-five percent (85%) ethanol."**

4 Page 11, line 37, delete "gasohol" and insert "**ethanol blended**
5 **fuel**".

6 Page 12, line 8, delete "gasohol" and insert "**ethanol blended fuel**".

7 Page 12, delete lines 14 through 30, begin a new paragraph and
8 insert:

9 "SECTION 9. IC 6-2.5-7-5.5 IS REPEALED [EFFECTIVE JULY
10 1, 2009].".

11 Renumber all SECTIONS consecutively.

(Reference is to HB 1398 as introduced.)

and when so amended that said bill do pass.

Representative Pflum